

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Call to Order: By **CHAIRMAN DAVE LEWIS**, on February 9, 2001 at 8:00 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Sen. John Cobb, Vice Chairman (R)
Rep. Edith Clark (R)
Rep. Joey Jayne (D)
Sen. Bob Keenan (R)
Sen. Mignon Waterman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Robert V. Andersen, OBPP
Pat Gervais, Legislative Branch
Lois Steinbeck, Legislative Branch
Sydney Taber, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Overview of Senior and Long-Term Care Division, Veterans Services
Executive Action: Executive Action on Human and Community Services

{Tape : 1; Side : A; Approx. Time Counter : 1.3-17.8}

Pat Gervais, Legislative Fiscal Division (LFD), distributed a decision package spreadsheet **EXHIBIT(jhh33a01)** and suggested language for HB 2 **EXHIBIT(jhh33a02)**. **Ms. Gervais** highlighted LFD issues in the budget analysis regarding: reductions of federal funds due to implementation of tribal TANF plans and the lack of a decision package for the corresponding reduction in maintenance of effort; the Title XX transfer change; the Department policy

change to fund all cash assistance costs out of prior year block grant funds and language in Exhibit 2 which would formalize that policy decision; maintenance of the \$8.3 million reserve in future years; the Individual Development Account pilot; the re-procurement of TEAMS; the FAIM Phase II program to support families exceeding the time limit; the reduction of the cost of the Food Stamp Issuance Contract; and issues in several decision packages.

{Tape : 1; Side : A; Approx. Time Counter : 17.8}

CHAIRMAN LEWIS asked **SEN. WATERMAN** to review the TANF proposals that she, **SEN. COBB** and **SEN. KEENAN** have been working on **EXHIBIT (jhh33a03)**. **SEN. WATERMAN** went over her proposals with the explanation that it is all one time funding; there would be no FTE added to the Department; contract services would be used; and funding ends in two years. The intent is to spend down the TANF reserve so these programs are not ongoing. It is critical that the entire child care block grant be drawn down. She then reviewed the areas that she considers most important for spending the TANF funds: 1) funding Kids Light, 2) allocating funds for the housing trust fund, 3) increasing funds for transportation needs, 4) contracting with local providers for in depth assessments for intensive family support services, chemical dependency, mental health, and developmental disabilities related needs, and 6) funding a revised Parents As Scholars program with certain requirements and limitations. The Department needs to work with other agencies in developing its proposal.

REP. JAYNE asked what the TANF reserve amount is now. **Ms. Gervais** answered that at the end of FY00, there was \$26.9 million.

SEN. COBB said that the Committee wants the Department to draw down most of the reserve before September 2002. After taking out the \$1.7 million that automatically goes to Kids Light, there will be about \$11-\$16 million left to spend in addition to what is already being spent. **SEN. COBB's** priorities are to fund the Parents AS Scholars, non-traditional employment, and tribal money. He would like the Department to get together with the groups that want the money and decide how to allocate funds. If all the groups and the tribes cannot make a resolution on how to spend the money, then the Committee will designate. The Committee will then give the Department a week to develop its plan for spending TANF.

REP. JAYNE asked **SEN. WATERMAN** how much of the TANF reserve needed to be spent down. **SEN. WATERMAN** said that she was thinking of spending down between \$13 and \$17 million. **SEN. WATERMAN** said that she is asking the Department to proceed with

development of proposals that will include those numbers with the previously mentioned parameters.

{Tape : 1; Side : B; Approx. Time Counter : 0.1}

SEN. COBB explained that **REP. JAYNE** could also ask the Department to look into spending in areas that she would like for the proposal.

REP. JAYNE mentioned that the Tribes had requested \$14 million because 50-51% of the caseload that all of Montana has is on Indian reservations and asked what specific funds they were requesting. What do they normally receive? Are these funds over and above what they normally get? What amount were they asking for? They sounded frustrated.

{Tape : 1; Side : B; Approx. Time Counter : 4.8-12}

Hank Hudson, Administrator of Human and Community Services, conjectured that the request for \$14 million was based on the proposal for FAIM Phase II, which is around \$28 or \$29 million. He explained that the Department operates a state program and offers its services to all citizens of the state. It is responsible, as the state TANF agency, for reporting and administration of the program. Should a tribe want a proportionate share of the block grant, it should submit a TANF plan to the federal government or the Department could expand the Tribal NEW contract so that the Tribes have more funds over which they have direct control. As far as breaking off a portion of these funds and designating for one county or tribe, the Department retains the legal obligation to administer the funds unless a separate plan is submitted to the federal government.

{Tape : 1; Side : B; Approx. Time Counter : 12-14.4}

SEN. COBB suggested that there needs to be an allocation or Tribal NEW expansion so that the Tribes see they are receiving the money or there will be no trust. The Tribes believe that they should receive the money first since they are the largest proportion of people on FAIM. The federal government has opened it up to a lot more people than are on FAIM so it is being used for a lot more people than FAIM.

{Tape : 1; Side : B; Approx. Time Counter : 14.4-15.7}

In further discussion, **Mr. Hudson** said that he believes part of the issue is tribal sovereignty. It's one thing to have the state or county operate a program that's available to tribal members, but is not as satisfactory as having a tribe operate its own program. **SEN. COBB** suggested that the Department take into account tribal frustration when it creates the plan.

{Tape : 1; Side : B; Approx. Time Counter : 15.7-17.3}

Mr. Hudson commented that some programs cannot be developed in a rural area since there are not providers or employment, but that the Department needs to make a visible effort to ensure that a portion of funds is used on reservations. **SEN. COBB** said that he did not want to give the Tribes all the \$14 million since there are Native Americans off the reservation receiving services, too, but that he does want to give the Tribes a portion in a visible way.

{Tape : 1; Side : B; Approx. Time Counter : 17.7-19.4}

SEN. WATERMAN said that she would like to see another intensive chemical dependency treatment center similar to the Graham House in the Billings area. An intensive treatment center in Billings would be accessible to Native Americans needing the services.

{Tape : 1; Side : B; Approx. Time Counter : 19.8-20.8}

CHAIRMAN LEWIS commented that the Parents As Scholars program will also clearly benefit tribal members. **Mr. Hudson** observed that this is an area in which some of the complexities of managing programs becomes apparent. Currently, on a reservation through the Tribal NEW program, a person would not need to meet the 10 hours work requirement to go to school.

{Tape : 1; Side : B; Approx. Time Counter : 20.8-22.7}

SEN. WATERMAN commented that she expects that most people going to school these days are working. The fiscal note on **REP. MASOLO's** bill was so high because there was no work requirement so it did not meet the TANF requirements. The programs with which **SEN. WATERMAN** are familiar all have a work requirement.

{Tape : 1; Side : B; Approx. Time Counter : 22.7}

Mr. Hudson said that the Department will come up with a plan to present to the Committee next week. It needs to plan carefully since the request for proposal (RFP) process can be lengthy. **SEN. COBB** wants the money to be spent one time to help as many people as possible to get a better job, and after that it is gone, and the program shrinks quickly.

{Tape : 1; Side : B; Approx. Time Counter : 28.4-30.8}

SEN. COBB said that he wants those on FAIM and those just off FAIM to have the first chance.

{Tape : 1; Side : B; Approx. Time Counter : 30.8-34}

REP. JAYNE asked **SEN. WATERMAN** if her proposal to fund Head Start is different than the Child Support Assurance program. **SEN. WATERMAN** said that those are different issues. **REP. JAYNE** asked if the child care block grant is separate from the request for a child support assurance program. **SEN. WATERMAN** said that the

budget as received does not draw down all the federal dollars available because there was not the general fund to match. **SEN. WATERMAN** wants them to go find the match since child care is essential to make education and work proposals successful.

{Tape : 1; Side : B; Approx. Time Counter : 34.4-}

REP. JAYNE asked if the child support assurance program could be included within the plan as a one time only. **SEN. WATERMAN** said that she did not include it in her notes since it is not her highest priority. **CHAIRMAN LEWIS** said that there is a separate bill in House Appropriations, HB 122. If it is included here, there would be real trouble with House Appropriations on this proposal. **SEN. WATERMAN** reiterated that this is a 15 to 18 month plan, and it would not be fair to guarantee child support for that period of time and then eliminate it. That is the problem that she sees in using this money for ongoing policy decisions.

{Tape : 2; Side : A; Approx. Time Counter : .3-2.3}

SEN. WATERMAN also heard that another subcommittee had cut the food bank program out of the Corrections budget. She asked **Jim Nolan** what could be done to keep the program going.

{Tape : 2; Side : A; Approx. Time Counter : 2.3-4.0}

Jim Nolan, Intergovernmental Human Services Bureau Chief, explained that there had been interagency mis-communication. Corrections mistakenly thought that it would provide the two FTE for two years after which the Department would take over. There is ongoing discussion; **Director Gray** and **Director Slaughter** will be talking and the Department will ensure that the program will not die.

EXECUTIVE ACTION - HUMAN AND COMMUNITY SERVICES DIVISION

PRESENT LAW ADJUSTMENTS:

{Tape : 2; Side : A; Approx. Time Counter : 4.2-4.4}

Motion/Vote: **SEN. COBB** moved TO ADOPT THE BASE LEVEL OF FUNDING PLUS STATEWIDE PRESENT LAW ADJUSTMENTS AND DP 699, ADDED VACANCY SAVINGS. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 4.4-5.8}

Motion/Vote: **SEN. COBB** moved TO ADOPT DP 8, DP 9, DP 59, DP 61, AND DP 63. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 5.8-13.2}

There was explanation of differences on DP 69 and DP 78 by **Ms. Gervais** and **Mr. Hudson**. Changes made by Governor Martz reduced

DP 69 by \$500,000 general fund over the biennium, and DP 78 was reduced by \$250,000 general fund over the biennium.

{Tape : 2; Side : A; Approx. Time Counter : 13.2-15.7}

Motion: SEN. COBB moved TO ADOPT DO 69 AND DP 78.

Discussion: REP. JAYNE asked Bob Andersen, OBPP, why those particular reductions in the Martz budget were made. He explained that the budget office needed to make reductions taking into account current revenues. Since there were no new programs with general fund in this division, the present law decision packages were where the cuts had to be made and these were the packages cut. SEN. WATERMAN asked if the rent was being paid, to which Mr. Hudson said that it would be paid, but would have to come out of something else.

{Tape : 2; Side : A; Approx. Time Counter : 15.2-16.2}

Vote: Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 16.2-16.8}

Motion/Vote: SEN. COBB moved TO ADOPT DP 202, SABHRS SYSTEM ADJUSTMENT. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 16.8-20.4}

There was discussion over the reduction of maintenance of effort (MOE) regarding the tribal TANF plan. Ms. Gervais stated that MOE is reduced when a Tribe implements a tribal TANF plan, and the reduction in MOE is \$440,000. Mr. Hudson explained that when a Tribe develops its own plan, Montana statutes say that the MOE money goes with the Tribe, plus an additional \$100,000. There is no reduction in the MOE because the MOE is still spent, it is just transferred to the Tribe, with \$100,000 that is not budgeted. Ms. Gervais commented that general fund for the Tribes can count toward MOE so the Department could fund the amount of money provided the Tribe, in accordance with state statute, out of the \$15.2 million reduced MOE requirement. Mr. Hudson stated that the Department does not have the authority to tell the Tribes how to spend that money so to say it can count as MOE is a stretch.

{Tape : 2; Side : A; Approx. Time Counter : 20.4-22.4}

SEN. COBB requested more information on the LFD issues in the budget analysis. Ms. Gervais suggested that she investigate whether the Department could write a contract with the Tribe to specify the requirements for spending that MOE in a manner such that it would be countable.

{Tape : 2; Side : A; Approx. Time Counter : 22.4-23.9}

Motion/Vote: SEN. COBB moved TO ADOPT DP 58, DP 92, DP 93, DP 94, DP 95, DP 200, DP 203. DP 204, DP 205, AND DP 206. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 23.9-24.6}

Ms. Gervais went over the language paragraphs on Exhibit 2.

Motion/Vote: SEN. COBB moved LANGUAGE TO HAVE THE DEPARTMENT REPORT ON EXPENDITURES AND REMAINING FUNDS TO THE FINANCE COMMITTEE AND THE INTERIM COMMITTEE ON CHILDREN, FAMILIES, HEALTH AND HUMAN SERVICES. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 24.6-29.8}

SEN. COBB suggested that the Committee wait on the language in the second paragraph of Exhibit 2. Ms. Gervais went over the third paragraph, which requires that the Department use carryover funds for assistance costs as long as carryover funds are available. The Department would be prohibited from using current funds for assistance. It is already the Department's policy, but reaffirms that it is the Committee's expectation of them. Mr. Hudson commented that with the more aggressive spending plan that has been proposed, current year budget and benefits could be spent pretty quickly.

{Tape : 2; Side : A; Approx. Time Counter : 29.9-30.8}

Motion/Vote: SEN. WATERMAN moved TO ADOPT THE LANGUAGE IN PARAGRAPH 3. Motion carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 30.8-47}

Mike Hanshew, Administrator of Senior and Long-Term Care Division, began a presentation of the division. He reviewed the history of the division and its role to provide services to elderly and disabled individuals. He went over the challenges that the Department will be facing with the advance in aging of more individuals in the state.

{Tape : 2; Side : B; Approx. Time Counter : 0.4-2.9}

Mr. Hanshew went over the specific functions of the division in relation to Medicaid, supplemental security income (SSI), operation of the Montana Veterans' Home in Columbia Falls, the contract for the operation of the Eastern Montana Veterans' Home in Glendive, and the services that the Division offers to individuals.

{Tape : 2; Side : B; Approx. Time Counter : 2.9-8.7}

Mr. Hanshew distributed an overview of the Senior and Long-Term Care Division EXHIBIT(jhh33a04). It operates entitlement programs, which are primarily the Medicaid programs: 1) the nursing home program, 2)personal assistance, 3) home health, and

4) hospice. The programs are costly, difficult to direct and target, and are laden with proscriptive federal regulations, but eligible individuals must be served.

The Division also administers programs that are considered discretionary programs. These programs may be required by law, but there is a fixed budget for them, and they are more easily targeted and managed. These programs would be the Medicaid Home and Community Waiver, the Aging Programs, and Adult Protective Services (APS).

{Tape : 2; Side : B; Approx. Time Counter : 8.7-16.1}

Mr. Hanshew then went over the nursing home issue. The nursing home program is an entitlement program under Medicaid. **Mr. Hanshew** went over the numbers of persons served, the percentage paid by Medicaid, and the cost to the state.

Nursing homes are closely regulated and heavily sanctioned if they do not meet regulatory requirements. The older, sicker patients and the cost of regulations are driving nursing home costs.

{Tape : 2; Side : B; Approx. Time Counter : 16.1-29.9}

CHAIRMAN LEWIS asked if things are so bad for nursing homes, why are there people wanting to build them? **Mr. Hanshew** answered that there are some nursing homes that are at full occupancy with waiting lists. Developers think that it makes sense to create continuing care communities which offer independent apartments through increasing levels of assistance up to nursing homes. This is a valuable franchise because it is an entitlement, and although Medicaid may not pay enough; it does pay.

{Tape : 2; Side : B; Approx. Time Counter : 19.9-27.5}

The Department has really low Medicaid growth projections, yet it takes only 35 additional people on average a day in a nursing home to drive up expenditures by 1% or \$1 million total funds. The average rate is \$98 per day. Nursing home care takes up 62% of the Division budget.

{Tape : 2; Side : B; Approx. Time Counter : 27.5-44.2}

Mr. Hanshew went over the history of Medicaid waivers. States negotiate with the federal government to waive federal regulations limiting the things that Medicaid can pay for. That waiver is used to target a population or services, which must, on average, cost less than a nursing home. **Mr. Hanshew** described the various aspects of the waiver program, all of which are popular. The major issue in the waiver program will be the waiting list and the Olmstead decision in relation to that issue.

{Tape : 3; Side : A; Approx. Time Counter : .3-8}

Mr. Hanshew continued with his description of division programs. Personal assistance is an entitlement and is an extremely popular program. Home health is a short-term medically intensive service provided after an acute illness or injury, and it is a primarily federally funded service under Medicare. The Department paid for about \$900,000 worth of home health for 700 people. The hospice program is end of life care for Medicaid patients and expenditures are going up. Most of these Medicaid community programs interact; individuals that are in one program may also be in another.

{Tape : 3; Side : A; Approx. Time Counter : 8-12.7}

Mr. Hanshew went over the aging programs for which the Department receives a federal grant of about \$5 million per year under the Older Americans Act. That money is contracted out to Agencies on Aging throughout the state, which serve people over 60. These agencies are best known for nutrition programs, services in senior centers, and transportation. They operate ombudsmen programs and act as advocates for nursing home patients, and provide information and assistance.

{Tape : 3; Side : A; Approx. Time Counter : 12.7-19.7}

Adult protective services (APS) is the newest aging program and employs social workers who assess and investigate elder abuse, neglect, and exploitation. APS staff also act as legal guardians for over 200 Montanans, which is of concern to the Department. APS is primarily a state general fund program with a cost of about \$1.5 million per year.

{Tape : 3; Side : A; Approx. Time Counter : 20-21.9}

The Division also operates the Montana Veterans' Home in Columbia Falls, a nursing home for veterans and their spouses. **SEN.**

WATERMAN asked if there is an Olmstead issue with the Veterans' Home. **Mr. Hanshew** said that Olmstead will work its way into every place where there is public funding. During the 1999 session, the Legislature approved construction of a special care unit at Columbia Falls. The Department also contracts with the Glendive Medical Center to operate the Eastern Montana Veterans' Home facility, which is a nursing home with a special care unit. This facility has never been filled and probably will never be.

{Tape : 3; Side : A; Approx. Time Counter : 25.1-42.6}

Mr. Hanshew reviewed the overall budget for Senior and Long-Term Care Division, which is about \$163 million and mentioned proposals that he will be making to the Committee. He stressed the flexibility and importance of his field staff and the APS workers.

{Tape : 3; Side : A; Approx. Time Counter : 42.6-46.2}

REP. JAYNE asked what the difference was between elderly feeding and aging meals. **Charlie Rehbein, Aging Services Bureau Chief**, reviewed the methodology used to distribute the funding for meals for the aged.

REP. JAYNE asked about the nutrition programs in Lake County.

Mr. Rehbein explained the programs through which they are funded, some of which are specific to Native Americans.

REP. JAYNE expressed her concerns for more funds for meals for her constituents and asked how to get the money. **Mr. Hanshew** said the Committee needs to vote on one of the requests to give the Department authority to spend the additional federal grant money available. There is also a request in to provide a rate increase to the Area Agencies on Aging, both of which would provide increased funding, although the Department does not dictate how the money is used by the agencies.

{Tape : 3; Side : B; Approx. Time Counter : 6-27.7}

Mr. Hanshew explained that three things driving expenditures in human services programs are: 1) who to serve; 2) what to offer; and 3) what to pay? In deciding eligibility, the factors are: age, disability, and financial resources. Components in determination of services are the allocation of resources between home care and nursing homes and the level of support. The factor involved in determining how much to pay is the cost. It is all a careful balancing act, but it is essential that the State invest in quality care over increased services.

The Division does four things to manage expenditures: 1) control entitlements; 2) invest in quality; 3) target expansion; and 4) look for federal money. It would like the Committee to give it blanket authority to go after federal money as long as it does not cost more money and it will do some good.

{Tape : 3; Side : B; Approx. Time Counter : 27.7-44}

Mr. Hanshew went over the details of how the Division had used its funding from last session and managed to stay under budget in the Medicaid program.

SEN. WATERMAN asked **Mr. Hanshew** about the EPSDT rates in relation to other home nursing rates. He responded that targeting of EPSDT so that it will be closer to the other rate is an issue that the Division needs to work on.

{Tape : 4; Side : A; Approx. Time Counter : 0.3-24.}

Mr. Hanshew reviewed the methods that his Division had used to manage its budget and some of the items funded. The Division

used contracted services to help the APS; funded direct care wage increased by targeting the increase where it was needed; reallocated some of the money for waivers and used it for personal assistance wage increases; and used lien and estate recovery funds for bonuses and training in nursing homes and equipment expenses.

Mr. Hanshew touched briefly on the intergovernmental transfer (IGT) for county nursing homes. He also addressed the Division transfer of \$200,000 in home health money to Developmental Disabilities (DD) for private duty nursing and the transfer of the last small ICF/MR in the state and its funding to DD.

{Tape : 4; Side : A; Approx. Time Counter : 24-30.8}

Mr. Hanshew went over the managing costs of the personal assistance program. Initially, costs were contained by having only one vender, but with more vendors, utilization and costs increased. In order to control the program costs, the Division instituted a pre-admission screening process administered by the Montana-Wyoming Foundation. The costs are funded with 25% state match. The Division hoped that it would save at least the \$356,000 cost of the contract in reduced utilization, which it did and more. As a result of the savings, the Division was able to give providers a 5% raise. The Division saved money, invested in quality, and paid for the contract all within the appropriation.

{Tape : 4; Side : A; Approx. Time Counter : 31.9-46.3}

Lois Steinbeck, LFD, briefly explained the graphs on the MHSP cost breakdown **EXHIBIT (jhh33a05)** and Department responses to Committee questions **EXHIBIT (jhh33a06)**. **Ms. Steinbeck** went over question 6 on Exhibit 6, which suggests a higher rate for use of Montana State Hospital. If people using the state hospital are charged more, it could discourage use of the facility. The Committee also discussed number 9, which is the chemical dependency Medicaid IGT program.

Ms. Steinbeck went over another item involving creation of a separate state program for children who are losing mental health eligibility retroactive to January 1, 2001.

{Tape : 4; Side : B; Approx. Time Counter : 0.1-2.9}

Ms. Steinbeck commented that the offset of alcohol funds that is included in 2002 and 2003 is development of a new program and does not offset general fund expenditures in the MHSP program. During fiscal 2001, it will be part of the offset of the supplemental because it will cover detoxification services provided by the state hospital. **SEN. WATERMAN** suggested that it

could be designed so that it reduces what would otherwise be expenditures.

A letter from Hank Hudson to subcommittee members regarding CCDF/FAIM - client eligibility was submitted **EXHIBIT (jhh33a07)**.

ADJOURNMENT

Adjournment: 12:00 P.M.

REP. DAVE LEWIS, Chairman

SYDNEY TABER, Secretary

DL/ST

EXHIBIT (jhh33aad)